

AMENDED IN SENATE MAY 3, 2005

SENATE BILL

No. 900

Introduced by Senator Denham

February 22, 2005

An act to amend Section 11011.10, and to repeal Sections 11011, 11011.1, 11011.2, 11011.3, 11011.4, 11011.5, 11011.6, 11011.8, and 11011.9, of the Government Code, relating to state property, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 900, as amended, Denham. Surplus state property: disposition.

(1) Existing law, inoperative until July 1, 2005, sets forth a ~~scheme~~ *procedure* pursuant to which certain state property may be declared surplus and disposed of by the Department of General Services upon authorization by the Legislature, including, among other things, the transfer at less than fair market value to local agencies of property to be used for ~~park and recreation~~ *certain recreational, park, and low- or moderate-income housing* purposes by the local agencies, subject to specified conditions.

This bill would repeal these provisions, except for those relating to the transfer of property for use for park and recreation purposes *and for low- or moderate-income housing* by local agencies at less than fair market value.

(2) Existing law, operative until July 1, 2005, and repealed as of January 1, 2006, sets forth a ~~scheme~~ *procedure* pursuant to which certain state property may be declared surplus and disposed of by the Department of General Services upon authorization by the Legislature. Transfers of surplus property to local governmental agencies or private entities or individuals pursuant to these provisions are required to be at fair market value.

This bill would delete the inoperative and repeal dates of these provisions, thus making them permanent.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11011 of the Government Code is
2 repealed.

3 SEC. 2. Section 11011.1 of the Government Code is repealed.

4 SEC. 3. Section 11011.2 of the Government Code is repealed.

5 SEC. 4. Section 11011.3 of the Government Code is repealed.

6 SEC. 5. Section 11011.4 of the Government Code is repealed.

7 SEC. 6. Section 11011.5 of the Government Code is repealed.

8 SEC. 7. Section 11011.6 of the Government Code is repealed.

9 SEC. 8. Section 11011.8 of the Government Code is repealed.

10 SEC. 9. Section 11011.9 of the Government Code is repealed.

11 SEC. 10. Section 11011.10 of the Government Code is
12 amended to read:

13 11011.10. (a) The disposal of surplus state property,
14 including any property declared surplus by the Legislature prior
15 to the effective date of this section but not yet disposed of by the
16 Department of General Services as of that date, shall be subject
17 to the requirements of this section.

18 (b) Notwithstanding any other provision of law, all state
19 agencies, departments, boards, and commissions, who have not
20 already done so pursuant to Executive Order S-10-04, shall
21 review the current and anticipated future programmatic need for
22 the state-owned and leased property that they occupy or have
23 under their stewardship, and identify and report any property
24 surplus to their current or future needs to the Department of
25 General Services. The department may provide instructions to
26 facilitate the reporting and determination of surplus properties.

27 (c) (1) The department shall review the properties identified
28 pursuant to Executive Order S-10-04 and subdivision (b) to
29 determine whether those properties are surplus to the needs of the
30 state, report the surplus properties to the Legislature, and request

1 authorization from the Legislature to dispose of the properties by
2 sale or otherwise.

3 (2) Any state agency with property under its jurisdiction that is
4 determined to be surplus and authorized for disposition pursuant
5 to this subdivision or by previous legislative action, shall provide
6 for the maintenance of the property until it is disposed of by the
7 department under this section.

8 (3) Jurisdiction of property determined to be surplus shall be
9 transferred to the department, when requested by the Director of
10 General Services, for sale or disposition under this section.

11 (d) (1) Subject to paragraphs (2) to (4), inclusive, the
12 department may sell or otherwise dispose of property as
13 authorized by the Legislature pursuant to subdivision (c), upon
14 any terms and conditions and subject to any reservations and
15 exceptions the department deems to be in the best interests of the
16 state.

17 (2) (A) Notwithstanding any other provision of law, property
18 that has been declared surplus and whose disposition has been
19 authorized by the Legislature pursuant to subdivision (c) or by
20 previous legislative action, and has been determined by the
21 department not to be needed by any state agency, shall be offered
22 to local governmental agencies prior to being offered for sale to
23 private entities or individuals.

24 (B) In order to be considered as a potential buyer of the
25 surplus property, local governmental agencies shall notify the
26 department of their interest in the surplus state property within 60
27 days of receiving notice of the availability of the property. The
28 sale of the property to a local governmental agency pursuant to
29 this section shall be completed, and title transferred, within 90
30 days of the date the local governmental agency was notified of
31 the availability of the property.

32 (3) If the sale of a surplus state property to a local
33 governmental agency is not completed within the timeframe
34 specified in subparagraph (B) of paragraph (2), the department
35 shall offer the property for sale to private entities or individuals.

36 (4) Transfers of surplus property to local governmental
37 agencies or private entities or individuals pursuant to this
38 subdivision shall be at fair market value.

39 (e) Notwithstanding paragraph (4) of subdivision (d), where
40 the land is to be used for park and recreation purposes and

operated for those purposes by local agencies at no expense to the state, the Director of General Services with the approval of the State Public Works Board may transfer the land to local governmental agencies at less than the fair market value of the land, if the transfer is in the public interest, under the following conditions:

(1) The local public agency has submitted a general development plan for the property that conforms to the agency's general plan pursuant to Article 5 (commencing with Section 65300) of Chapter 3 of Title 7, and the general development plan has been approved by the Director of Parks and Recreation.

(2) The land shall be developed according to plan within a time period determined by the state but not to exceed 10 years. The deed or other instrument of transfer shall provide that the land shall revert to the state if the land is not developed within the time period determined by the state.

(3) The deed or other instrument of transfer shall provide that the land would revert to the state if the use changed to a use not consistent with parks and recreation purposes during the period of 25 years following the sale.

(f) (1) Notwithstanding paragraph (4) of subdivision (d), where the land is to be used for the purpose of providing housing for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, the Director of General Services, with the approval of the State Public Works Board, may transfer the land to local agencies within whose jurisdiction the land is located, at less than the fair market value of the land, if the transfer is in the public interest, subject to both of the following:

(A) If the state has held title to the land for seven years or less, the land is not used for the purposes for which it was acquired, and the land is declared surplus land and is not needed by any other state agency, the state, prior to transferring the land to local agencies, shall extend to the individual from whom the land was acquired an offer to purchase the land at current fair market value.

(B) The offer shall extend for 60 days and if not exercised within that period shall be irrevocably terminated.

(2) The Department of Housing and Community Development shall recommend to the Department of General Services a cost

1 *that will enable the provision of housing for persons and families*
2 *of low or moderate income.*

3 *(3) All transfers of land pursuant to this section shall be*
4 *subject to all of the following conditions:*

5 *(A) The local agency has made all of the following findings:*

6 *(i) There is a need for the housing in the community.*

7 *(ii) The land is suitable for development of the housing.*

8 *(B) The local agency develops a plan for the housing in*
9 *accordance with criteria established by the Department of*
10 *Housing and Community Development, that shall include, but not*
11 *be limited to, criteria respecting the financial condition of the*
12 *developer, if the housing is to be developed by a private sponsor,*
13 *and the cost of the project. The plan shall be approved by the*
14 *Department of Housing and Community Development.*

15 *(C) After transfer of the property from the state to the local*
16 *agency, the property shall be developed as housing for persons*
17 *and families of low or moderate income. The local agency may*
18 *lease or sell the property to any nonprofit corporation, housing*
19 *corporation, limited-dividend housing corporation, or private*
20 *developer if the local agency determines that a private entity is*
21 *best suited to develop housing for persons and families of low or*
22 *moderate income. In authorizing the private development, the*
23 *local agency shall impose reasonable terms and conditions that*
24 *further the purposes of this subdivision, that shall include, but*
25 *not be limited to, continued use of the property for housing for*
26 *persons and families of low or moderate income for not less than*
27 *40 nor more than 55 years. A lessee or purchaser of land*
28 *pursuant to this paragraph shall agree to limitations on profit in*
29 *the operation of the property that will benefit the public and*
30 *assure that the housing provided is within the means of persons*
31 *and families of low or moderate income. The agreement shall be*
32 *binding upon successors in interest of the original lessee or*
33 *purchaser and shall inure to the benefit of, and be enforceable*
34 *by, the state.*

35 *(D) The local agency shall assure that the land will be used*
36 *for the purpose of providing low- or moderate-income housing*
37 *and shall not permit the use of the dwelling accommodations of*
38 *the project for any other purpose for not less than 40 nor more*
39 *than 55 years, except as provided in this subdivision.*

1 (E) *The project shall be commenced within 24 months of the*
2 *original transfer to the local agency. However, the Department*
3 *of General Services, in consultation with the Department of*
4 *Housing and Community Development, may for justifiable cause*
5 *extend the time for commencement of development for an*
6 *additional 36 months. The aggregate time for commencing*
7 *development shall not exceed 60 months. The deed or other*
8 *instrument of conveyance shall specify that, if development has*
9 *not commenced within that time, the land shall revert to the*
10 *Department of General Services for disposal pursuant to this*
11 *subdivision or as otherwise authorized by law.*

12 (F) *As used in this subdivision, “local agency” means any*
13 *county, city, city and county, redevelopment agency organized*
14 *pursuant to Part 1 (commencing with Section 33000) of Division*
15 *24 of the Health and Safety Code, or housing authority organized*
16 *pursuant to Part 2 (commencing with Section 34200) of Division*
17 *24 of the Health and Safety Code, public district, or other*
18 *political subdivision of the state, and any instrumentality thereof,*
19 *that is authorized to engage in or assist in the development or*
20 *operation of housing for persons and families of low or moderate*
21 *income, and also includes two or more of those agencies acting*
22 *jointly pursuant to Part 1 (commencing with Section 6500) of*
23 *Division 7.*

24 (G) *Up to 40 percent of the housing developed on land*
25 *purchased at below market value pursuant to this subdivision*
26 *may be housing that is not regulated as to price, rent, or*
27 *eligibility of occupants only if the purchaser of the land*
28 *demonstrates that the proceeds from the sale or rental of the*
29 *housing, in an amount equal to the difference between the fair*
30 *market value and the actual price paid for the land, is used to*
31 *reduce prices or rents on other housing units that are made*
32 *available exclusively to persons and families of low and*
33 *moderate income.*

34 (4) (A) *If a local agency does not comply with the land use*
35 *requirements prescribed in this subdivision, as determined by the*
36 *Department of General Services, the Department of General*
37 *Services may require that the local agency pay the state the*
38 *difference between the actual price paid by the local agency for*
39 *the property and the fair market value of the property at the time*
40 *of the department’s determination of noncompliance, plus 6*

1 *percent interest on that amount for the period of time the land*
2 *has been held by the local agency.*

3 *(B) If the local agency, with the approval of the Department of*
4 *General Services, and in consultation with the Department of*
5 *Housing and Community Development, determines that there is*
6 *no longer a need for low- or moderate-income housing within the*
7 *jurisdiction of the local agency and another valid public purpose*
8 *could be achieved by utilizing the land in an alternative manner,*
9 *the local agency shall not be required to make any payment to*
10 *the state for the difference between purchase price and the fair*
11 *market value or interest charges for the period of time the land*
12 *has been held by the local agency.*

13 *(5) Failure to comply with this subdivision shall not invalidate*
14 *the transfer, sale, or conveyance of the real property to a bona*
15 *fide purchaser or encumbrancer for value.*

16 *(6) Where the land is suitable to be used for the purpose of*
17 *providing housing for persons and families of low or moderate*
18 *income, as defined in Section 50093 of the Health and Safety*
19 *Code, and no local agency has acquired the land or is in the*
20 *process of acquiring the land pursuant to this subdivision, the*
21 *Director of General Services, with the approval of the State*
22 *Public Works Board, shall offer the land for lease or sale to a*
23 *housing sponsor. The land may be sold or leased at a reasonable*
24 *cost that may be less than fair market value. The Department of*
25 *Housing and Community Development shall recommend to the*
26 *Director of General Services a cost that will enable the provision*
27 *of housing for persons and families of low or moderate income.*
28 *All transfers of land pursuant to this paragraph shall be subject*
29 *to all of the following conditions:*

30 *(A) The housing sponsor has submitted a plan for the*
31 *development of the housing pursuant to criteria established by*
32 *the Department of Housing and Community Development. The*
33 *criteria shall include, but need not be limited to, standards with*
34 *respect to the cost of the housing development and the proportion*
35 *of the housing development to be occupied by persons and*
36 *families of low and moderate income. Insofar as is practical, the*
37 *plan shall provide for a mix of housing for all income groups.*

38 *(B) The housing development shall normally be developed or*
39 *be under development within 24 months from the time of transfer*
40 *or lease of the land to the housing sponsor. However, the*

1 Department of General Services, in consultation with the
2 Department of Housing and Community Development, may, for
3 justifiable cause, extend the time for commencement of
4 development for an additional 36 months. The aggregate of time
5 for commencement of development shall not exceed 60 months.
6 The deed or other instrument of conveyance shall specify that if
7 development has not commenced within that time, the land shall
8 revert to the Department of General Services for disposal
9 pursuant to this subdivision or as otherwise authorized by law.

10 (C) Transfer of title to the land or lease of the land to a
11 housing sponsor shall be conditioned upon continued use of the
12 property as housing for persons and families of low or moderate
13 income for not less than 40 nor more than 55 years. In
14 accordance with regulations that shall be adopted by the
15 Department of Housing and Community Development pursuant
16 to the Administrative Procedure Act (Chapter 3.5 (commencing
17 with Section 11340) of Division 3 of Title 2), the Director of
18 General Services shall require that any housing sponsor
19 purchasing or leasing land pursuant to this paragraph enter into
20 an agreement that (i) provides for limitations on profit in the
21 operation of the property that both benefit the public and assure
22 that the housing is affordable to persons and families of low or
23 moderate income, and (ii) does not permit the use of the property
24 for purposes other than the provision of housing for persons and
25 families of low or moderate income except as provided in this
26 paragraph. Upon recordation of the agreement in the office of
27 the county recorder in the county in which the real property
28 subject to the agreement is located, the agreement shall be
29 binding for a period of not less than 40 nor more than 55 years
30 upon successors in interest to the original housing sponsor and
31 shall inure to the benefit of, and be enforceable by, the state.

32 (D) For the purposes of this paragraph, "housing sponsor"
33 means any of the following:

34 (i) A nonprofit corporation incorporated pursuant to Part 1
35 (commencing with Section 9000) of Division 2 of Title 1 of the
36 Corporations Code.

37 (ii) A cooperative housing corporation that is a stock
38 cooperative, as defined by Section 11003.2 of the Business and
39 Professions Code.

40 (iii) A limited-dividend housing corporation.

1 (iv) *A private housing developer that agrees to the conditions*
2 *set forth in this subdivision.*

3 (E) *Up to 40 percent of the housing developed on land*
4 *purchased at below market value pursuant to this paragraph may*
5 *be housing that is not regulated as to price, rent, or eligibility of*
6 *occupants only if the purchaser of the land demonstrates that the*
7 *proceeds from the sale or rental of the housing, in an amount*
8 *equal to the difference between the fair market value and the*
9 *actual price paid for the land, is used to reduce prices or rents*
10 *on other housing units that are made available exclusively to*
11 *persons and families of low and moderate income.*

12 ~~(f)~~

13 (g) Except as otherwise required by the California Constitution
14 or federal law, the net proceeds of any property disposition,
15 including the sale, lease, exchange, or other means, that is
16 received pursuant to this section shall be paid into the General
17 Fund. For purposes of this section, “net proceeds” means gross
18 proceeds less all costs directly related to the completion of the
19 transaction including, but not limited to, selling costs, transfer
20 fees, commissions, and costs incurred by the department.

21 ~~(g)~~

22 (h) Except as otherwise required by the California Constitution
23 or federal law, any rental moneys or other revenues received by
24 the department from real properties, the jurisdiction of which has
25 been transferred to the department under this section, shall be
26 deposited in the General Fund in the account established by
27 Section 15863. Any expenditure required to maintain, repair, care
28 for, and sell the real property shall be paid from the appropriation
29 made by Section 15863.

30 SEC. 11. This act is an urgency statute necessary for the
31 immediate preservation of the public peace, health, or safety
32 within the meaning of Article IV of the Constitution and shall go
33 into immediate effect. The facts constituting the necessity are:

34 In order to ensure that statutory changes necessary for proper
35 administration and transfer of surplus state-owned real property
36 are effective for the entire 2005-06 fiscal year, it is necessary for
37 this bill to take effect immediately.